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Letter dated 18 May 2005 from the Permanent Representative of Serbia and Montenegro to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a copy of a letter from Rasim Ljajić, Minister for Human and Minority Rights of Serbia and Montenegro, and Nebojša Čović, President of the Coordination Centre of Serbia and Montenegro and of the Republic of Serbia for Kosovo and Metohija, addressed to the Secretary-General (see annex).

I should be grateful if you circulated the present letter and its annex as a document of the Security Council.

(*Signed*) Nebojsa **Kaludjerović**
Permanent Representative

05-35321 (E) 240505

Annex to the letter dated 18 May 2005 from the Permanent Representative of Serbia and Montenegro to the United Nations addressed to the President of the Security Council

16 May 2005

In view of the fact that stable and democratic Kosovo and Metohija is our common interest, and that the protection of human rights is a fundamental principle of democratic societies, we are writing to you to express our serious concern regarding the situation of human rights in Kosovo and Metohija, especially the rights of non-Albanian national communities.

Considering that international standards contained in international legal instruments have to be respected in Kosovo and Metohija, Serbia and Montenegro has insisted that the international conventions acceded to by our country be respected in Kosovo and Metohija as well, so that all citizens of Serbia and Montenegro may enjoy the same level of human rights protection in all parts of its territory. That is why we have welcomed the decision that UNMIK and the Council of Europe sign a bilateral agreement whereby UNMIK undertook to implement two major international conventions in Kosovo and Metohija: the Framework Convention for the Protection of National Minorities and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Unfortunately, we have to point out that almost one year after that agreement was signed UNMIK has failed to honour its obligations under those conventions. The Framework Convention for the Protection of National Minorities is the only international legally binding instrument for the protection of national minorities. Serbia and Montenegro signed that Convention even before the country's admission to the Council of Europe, thus expressing its commitment to improve the standards for national minority protection. In addition, it submitted its report on the implementation of the Convention, which was acknowledged by the visit of the Advisory Committee and through a resolution of the Council of Europe Parliamentary Assembly.

On the other hand, UNMIK failed to submit its report by February this year, thus seriously breaching its obligations under this international document. Consequently, the visit of the Advisory Committee was postponed, while it could have appraised the level of national minority protection in Kosovo and Metohija and thus assisted in the final assessment of standards in this field.

The Convention for the Prevention of Torture adopted by the Council of Europe is also one of the fundamental international documents on human rights protection, and the Council of Europe Committee for the Prevention of Torture, with its wide-ranging authority, makes it possible for an accurate assessment of the situation in this area to be made for each country. Immediately upon signing the Convention, Serbia and Montenegro facilitated the visit of the Committee for the Prevention of Torture and provided free access to all prisons, police precincts and psychiatric institutions. On the other hand, so far the Committee has not been allowed to visit nor granted access to all of the detention facilities in Kosovo and Metohija. The Secretary General of the Council of Europe, Terry Davis, in his communication of 3 December 2004 to the Secretary General of NATO, Jaap de Hoop Scheffer, again insisted that the Technical Agreement be signed to allow

unhindered access to the prison facilities under KFOR control. Unfortunately, so far, the Council of Europe has not been able to exercise its right under the Convention — to inspect the situation on the ground and assess the treatment of prisoners in Kosovo and Metohija.

This, of course, raises grave concern, since the international administration in Kosovo and Metohija is currently in serious breach of its obligations towards international organizations, such as the Council of Europe. On the other hand, it is more than evident that the citizens in Kosovo and Metohija do not enjoy the same rights as those living in other parts of our country while it is our duty and obligation to provide to all our citizens the same standards.

We would also like to draw your attention to another problem that causes anxiety in the public and threatens to further aggravate the situation of the non-Albanian population that fled Kosovo and Metohija. Serbia and Montenegro and the Federal Republic of Germany concluded a bilateral Readmission Agreement. In the course of negotiations and later in its implementation, it was agreed that the displaced non-Albanian population will not be forcibly repatriated to the territory of Kosovo and Metohija before necessary security standards for their safety are fully met. Concerned over a possible forcible repatriation of refugees from Kosovo and Metohija, mainly Roma, the Committee of Ministers of the Council of Europe adopted recommendation 1633 (2003) obliging the countries accommodating non-Albanian refugees from Kosovo and Metohija not to deport them forcibly to the Kosovo and Metohija territory. Thus, this principle has been recognized not only in a bilateral agreement but also in an international document.

Nevertheless, on 26 April 2005, without even consulting Serbia and Montenegro, which has already signed the Readmission Agreement with Germany, UNMIK and Germany signed a bilateral agreement stipulating conditions for deportation of Askalias, Egyptians and Roma from Germany to Kosovo and Metohija.

At the same time, the Prime Minister of Kosovo, Bajram Kosumi, during his visit to Macedonia, gave guarantees for the return of around 6,000 Roma who fled Kosovo and Metohija and settled in the territory of Macedonia. Over the past two years, Roma refugees in Macedonia have staged numerous protests opposing their forcible repatriation to Kosovo and Metohija although they live at the verge of subsistence. Throughout the entire period, the administration in Kosovo and Metohija has failed to take any concrete step, not even trying to assure Roma refugees that they can return to Kosovo and Metohija.

Serbia and Montenegro welcomes all opportunities for the return of displaced persons, but follows with great concern these sudden attempts to force displaced non-Albanians, mostly Roma, to return to Kosovo and Metohija without their consent at a moment when the final assessment of the standards is pending. We believe that it would create a distorted picture of the process of returns and the security situation in Kosovo and Metohija. Ultimately, the citizens returned forcibly would be compelled again to seek refuge out of Kosovo and Metohija and find themselves in an even more precarious situation of renewed exile and reintegration.

Therefore, we urge UNMIK to finally begin to carry out its international obligations and thus enable all citizens of Kosovo and Metohija to enjoy international legal protection. We also call for an end to these dangerous attempts at

forcible returns of displaced persons and request that the rights of refugees and displaced persons be seriously taken into consideration.

Convinced that you are also committed to the same principles of democracy and human rights protection, as well as to the respect of the international principles of human and minority rights in Kosovo and Metohija, we call upon you to duly consider the above-mentioned problems and take appropriate steps.

(*Signed*) Rasim **Ljajić**
Minister for Human and
Minority Rights

(*Signed*) Nebojša **Čović**
President of the Coordination Centre
of Serbia and Montenegro for
Kosovo and Metohija